HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.7264 of 2007

Date: 08.08.2007

Between :

Mahyco Seeds Ltd.

.....Petitioner

And

Govt. of A.P. and others.

.....Respondents.

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.7264 of 2007

ORDER :

Petitioner is a company, undertaking the activity of producing, processing and marketing of the seeds of different categories. It obtained licence under the Seeds Control Order, 1983 (for short 'the Control Order') in respect of certain categories of seeds developed by it. The processing unit of the petitioner at Kallakal Village, Toopran Mandal, Medak District was visited by a team of officials of the Agriculture Department on 16.03.2007. A semblance of panchanama was drawn by them, pointing out that huge quantities of seeds of different categories, not entered in the licence of the petitioner, were found, undergoing the process, for the purpose of sale. Since the person, holding the rank of Seed Inspector, was not available on that day, the next step was postponed to 23.03.2007. On that day, the Agricultural Officer, Toopran Mandal, 3rd respondent herein, had drawn a panchanama

and seized large quantities of seeds from the petitioner, alleging that they were being handled in contravention of the provisions of the Control Order. The seized commodities were handed over to the petitioner for safe custody. The proceedings initiated by the respondents and in particular, the 3rd respondent, are challenged in this writ petition.

On behalf of the respondents, a counter affidavit is filed. It is stated that the petitioner started processing and sale of different kinds of seeds, without obtaining any licence under the Control Order. Instances of the petitioner undertaking the sale of such seeds were also pointed out. It is ultimately urged that the proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') are to be initiated and the validity or otherwise of the seizure can be adjudicated therein.

Sri E.Manohar, the learned senior counsel appearing for the petitioner submits that there was no basis for the 3rd respondent or other officials of the Department, to cause inspection, since the conditions contemplated under Clause 13 of the Control Order did not exist. He contends that not a single instance of sale of any item of seeds, not covered by the licence, was

pointed out, before the inspection was undertaken. He further submits that the petitioner undertook the processing of the seeds, only for the purpose of sale in other States, where licences were granted for it. He places reliance upon a Judgment of the Supreme Court in ***Sate of Gujarat vs. Devika Devi***[1]***.***

Learned Government Pleader for Agriculture, on the other hand, submits that it is too pre-mature to arrive at a conclusion, as to the violation committed by the petitioner, and all the points urged by the petitioner can be dealt with effectively in the proceedings under Section 6-A of the Act. He contends that the respondents came to know about the transactions of sale undertaken by the petitioner, in respect of the seeds, that were seized through the impugned panchanama.

The Control Order mainly regulates the sale of seeds and the processing, as such, is not prohibited. The restrictions operate, only when the sale of the seeds takes place. In the instant case, admittedly, the seeds seized by the 3rd respondent were not covered by the licence held by the petitioner. Mere processing of the seeds can not constitute the basis for seizure. However, the

respondents insist that the petitioner did undertake the sale of the said varieties of seeds, which are not covered by licence. Copies of invoices and bills are also filed.

Soon after effecting the seizure of the seeds from the petitioner, the 3rd respondent submitted a report, dated 23.03.2007, to the District Collector, Medak, 6th respondent herein, who is conferred with the power under Section 6-A of the Act. When there is dispute on the question whether the petitioner had undertaken the sale of the seeds not covered by the licence, this Court cannot adjudicate upon the validity or otherwise of the seizure. The proceedings under Section 6-A of the Act would be comprehensive enough to take into account, the explanation that may be offered by the petitioner, in support of its activity. Though the report was submitted, the further proceedings did not take place, on account of the pendency of the writ petition. This Court is of the view that the interests of the parties would be better protected, in case, the proceedings under Section 6-A of the Act are directed to be concluded, without further loss of time.

Hence, the writ petition is disposed of, directing that the report, 23.03.2007, submitted by the 3rd respondent to the 6th respondent shall be taken up as the proceedings

under Section 6-A of the Act and be concluded within a period of two (2) months from the date of receipt of a copy of this order. There shall be no order as to costs.

08.08.2007

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[1] (1996) 7 Supreme Court 109